



Elections 2024

Committee on the Rights of Persons with Disabilities (CRPD)

Committee on the Elimination of Discrimination Against Women (CEDAW)

Human Rights Committee (HR Cttee)

Committee on the Rights of the Child (CRC)

Questionnaire for candidates

Four UN Treaty Bodies, Committee on the Rights of Persons with Disabilities (CRPD), Committee on the Elimination of Discrimination Against Women (CEDAW), Human Rights Committee (HRCttee), and Committee on the Rights of the Child (CRC), will have elections organised in 2024.

In order to strengthen the treaty bodies, the International Disability Alliance, Child Rights Connect and IWRAW Asia-Pacific – as part of [TB-Net](#), the NGO network on the UN Treaty Bodies – seek to promote quality, independence and diversity of treaty body membership through transparent and participators nomination and elections processes.

This questionnaire, which is sent to all nominated candidates and is based on the criteria set forth in the relevant treaties and in the General Assembly Resolution 68/268, will enable all States and other stakeholders to better understand the skills, experiences and motivation of running candidates to CRPD, CEDAW, HRCttee, CRC and CESCRC in advance of the elections.

The written responses to the questionnaires will be made available on the website www.untbelections.org, while the video responses will be shared on a dedicated [YouTube page](#).

This initiative does not imply that we support or oppose any individual candidates.



Questions for all treaty bodies candidates

1. Name: Fiona Atupele Mwale

2. Nationality: Malawian

3. Current position: Judge of the High Court of Malawi, Judge in Charge of the Family and Probate Division and Chairperson of the National Child Justice Forum and Child Justice Directorate in the Malawi Judiciary

4. Are you currently holding, or have you previously held any position on behalf of, or for, your Government (Executive branch) that may compromise your actual or perceived independence and impartiality? If so, please give details:

No. I declare that I am currently employed by the judiciary and all former employment in the executive would not affect my actual or perceived independence and impartiality.

5. Please indicate any current or potential conflict of interest that may prevent you from exercising independence and impartiality in your work as a member of a UN treaty body:

None, I declare that I do not have any current or potential conflict of interest that may prevent me from exercising independence and impartiality in my work as a member of a UN treaty body.

6. Was the nomination process for your candidacy a transparent and participatory process? Was civil society or other relevant stakeholders involved?

I was simply informed of my nomination, I was not informed about the process that led to it.

7. During your possible mandate as a Committee member, what other positions or professional activities do you intend to engage in?

I shall continue with my work as a judge of the High Court and studies as a part time student at the University of Cape Town if appointed.

8. The commitments as a Committee member are very time-consuming during and outside session time. How will you ensure to have the capacity to dedicate the necessary time to the work of the Committee, both in person and online?

As a sitting judge who is responsible for my own schedule, I would only set down matters for hearing at times when the Committee is not sitting. As a judge my terms and conditions of service enable



me to participate in committees such as this. At the moment, I am on partial study leave and so my caseload is greatly reduced. Further, I have excellent time management skills and have successfully managed my time to fulfil my duties as a sitting judge while undertaking other professional engagements including consultancies that have taken me out of my country to various other countries. I shall not take up any consultancy work if appointed and I shall use that time for the work of the Committee. I always organise my schedule in such a way that I complete all my court work in a given time and then use court recess times and annual leave to complete other engagements without compromising my court duties. I have a proven track record for using my time very effectively, for example, I would use travel time for example to write judgments so that I am always on top of my court work even when I am not at my duty station. In short, because I manage my schedule, I am able to plan in advance a schedule that would accommodate both roles, both online and in person.

9. What are the current and main challenges that you see for the treaty body system and what are your ideas for improvement?

The three main often cited challenges affecting the treaty body system are (1) delays by states in submitting reports; (2) non-reporting; and (3) duplication of reporting in view of the existence of many treaties. For the third challenge, the solution would be to harmonise the treaty reporting system, efforts for which are already underway. The reporting system has also already been simplified but more could be done. For me the first two challenges are more pressing especially for poor countries or underdeveloped countries such as my own whose reporting must be supported by financial aid from developing partners or donors. Compiling a report is a time and resource consuming enterprise. It requires expertise and operating in a capacity and resource constrained background makes detailed reporting difficult. Data collection is especially challenging as many state entities do not keep data in a readily accessible form if at all. Key informants are usually unaware of the UN Treaty System and sorting out the information in a presentable form in view of the complexities of the UN System is also difficult. I would suggest that the UN set up delegated regional systems in partnership already existing regional blocks such as the African Union (for example) that have set checklists to support member states in fulfilling their treaty obligations. Rather than only submitting getting periodic reports to the UN, members states would submit simplified checklists to the regional delegated body with the aim of getting guidance for the areas the checklist highlights as lacking. This is more action oriented as it doesn't take too long for the states to receive immediate feedback which should be targeted and reviewed by experts in their region. The reports would still be submitted to New York and Geneva but in the times between, states would be assisted by the regional system to follow steps that would help them achieve full compliance and this would then be reported in the states reports. From my experience, the treaty reporting bodies do not always have the expertise/capacity to appreciate the context within which poor states such as my own operate. I have occasionally participated in UN expert meetings over certain issues and presented scenarios that had not been contemplated by the experts. I believe having regional support bodies that would support compliance with treaties based on country or regional specific problems would present a better platform for these challenges to be better articulated to the full UN Committee in the country reports.



10. Given the current situation of the COVID-19 pandemic worldwide and the disruption of in person meetings of treaty bodies, will you be willing to adapt to undertake online work during your mandate, as an increasing way of functioning of the Committees?

I am willing to adapt and undertake online work if appointed. I have successfully participated in a lot of virtual meetings since the COVID-19 pandemic and find them to be an efficient, practical and effective way of conducting business.

Link to your full resume:



CV attached

Questions for candidates to the UN Committee on the Rights of the Child (CRC)

Please provide responses that are as precise as possible and in no more than **200 words per question**.

Your motivation, experience and qualifications to become a member

1. What motivates you to be a member of the Committee on the Rights of the Child? **(video option)**

Video attached.

2. Taking into account the current composition and expertise of the Committee, what would be your added value? **(video option)**

Video attached.

3. What do you think are the emerging issues and challenges in the implementation of the CRC and its Optional Protocols on a global scale as well as in your country/region?

Globally, the socio-economic impact of the COVID-19 pandemic and the current Ukraine war and its associated burden have affected most families leaving children vulnerable as the families cannot afford to look after them. For countries with a functioning social welfare system, the shock is absorbed to some extent. For countries such as my own with no robust welfare system, children are left destitute making it difficult for the rights in the CRC and its Optional Protocols to be protected. In my region and country, the difficulty encountered by families or single parents to enforce maintenance orders from the other parent to maintain the child is an emerging problem. Many children who have one parent who is capable of paying maintenance but neglects to do so willingly get away with it despite court orders and there is need to support states to strengthen judiciaries and enforcement mechanisms to protect these children as they fail to access quality education and healthcare. This is exacerbated by the many intersecting vulnerabilities that these children already have, which including disability or HIV/AIDs infection.

4. What do you think are the areas where the Committee needs to strengthen international child rights standards?

The Committee needs to strengthen international child rights standards by making its work aimed at encouraging positive campaigns just as prominent as its work in reviewing state party reports. State party reports are viewed periodically, and some states are unable, due to economical or financial pressures to comply even though there is political willingness to comply. Focussing on



encouraging positive campaigns and making the standards of the CRC and its optional protocols more visible in the member states through awareness raising campaigns, encouraging international cooperation best practices makes the CRC more real at state level and with a more informed or aware populace learning from best practices in other countries, it is sometimes possible to innovate on best practices use methods that do not require much funding. In my country, through awareness raising campaigns in courts, magistrates have been able to devise ways to protect the child in court using simple materials and means that are available at little or no expense.

5. How do you envision the work of the Committee in the achievement of the Sustainable Development Goals?

The reporting procedure of the CRC incorporates the Sustainable Development Goals and the targets that are relevant to children so that states report will automatically demonstrate how they are achieving the SDGs with regard to children. The work of the Committee should draw out the significance of the rights of the child to the 2030 Agenda for Sustainable Development by requiring the states to demonstrate how the actions plans, programs and policies developed by those states for the purpose of achieving the SDGs affect and impact on children. Funding for action plans, programmes and policies should show the precise allocation made for children and how far children have participated in formulating them so that the approach taken goes beyond lip service which is what can be done if these specific issues are not addressed.

6. How do you think the Committee could advance the standards and practices on child participation, and particularly children's right to participate in political life and child human rights defenders?

The Committee could engage with child parliaments and child human rights more meaningfully by scheduling virtual dialogues with child parliaments to get a chance to hear from children themselves about their views on decisions affecting them. Since it is practically impossible for the Committee to dialogue with every child parliament or all child rights defenders, making a concerted efforts in its communications to states to clarify what processes they went through to give children as rights holders, the opportunity to express their views, wishes and ideas and how the state gave those views etc, due consideration in all decisions, programmes and policies affecting them. In its mandate to dialogue with states parties and to issue general comments and statements, the Committee could advance standards and practices on child participation in accordance with article 12 of the CRC by emphasizing the importance of the voice of the child especially in participating in political life so that states are encouraged to take action.

7. What can the Committee do to further strengthen its engagement with civil society?

As the Committee already engages with civil society by receiving parallel reports and holding dialogues with them, the engagement could be strengthened by prioritising those countries with weak civil society. Regular dialogues by the Committee with such civil society organisations gives them leverage to acquire donor funding and conduct more activities aimed at strengthening child rights. For weakened civil society, regular contact with Geneva will provide guidance and credence that they need to operate better.





CURRICULUM VITAE



Private Bag 15
Lilongwe
Malawi

Phone+265 996545280
E-mail
fionamwale@icloud.com

F I O N A A T U P E L E M W A L E

SUMMARY

Meticulous, multi-task oriented and versatile High Court Judge with 10 years’ experience at the bench, specializing in juvenile justice, child rights and family law and criminal law with prior combined 20 years extensive experience at national and regional level in prosecution, gender and child rights- related law reform, criminal and civil litigation, and legal research.

Proficient and highly experienced judicial trainer and trainer of trainers with over 18 years’ experience training at both national and international level in gender-based violence, trafficking in persons, gender and child responsive adjudication and courtroom management and family law and child law.

SKILLS

Fair and honourable decision making	Critical reasoning
Active listening skills	Project management
Judicial leadership and judicial training	Gender responsiveness
Social perceptiveness	Proficiency in
French	

EDUCATION

- 2023-current PhD candidate, Public law Department, University of Cape Town**
- 2001-2002 Master of Law in Development, (with Distinction), University of Warwick, UK**
 - Thesis: “Poverty Alleviation Initiatives and the Global Economy: an Unworkable Vision”.
- 1997-1998 Bar Vocational Diploma, (Very Competent), Nottingham-Trent University, UK**
 - Called to the Bar of England and Wales by the Honourable Society of Gray’s Inn.
- 1994-1997 LLB (Hons) Law Degree, (II.I Honours), University of Leeds, UK**

WORK EXPERIENCE

November 2012 – Current

High Court Judge

High Court of Malawi, Family and Probate Division, Lilongwe District Registry, Lilongwe

- Adjudication and hearing of family matters
- Previous experience in Criminal and Civil Division with numerous reported judgments.

August 2021 – Current

Chairperson National Child Justice Forum and National Child Justice Directorate in the Malawi Judiciary

- Responsible for overseeing the coordination of the sector platform that consists of state and non-state actors in the child justice sector in Malawi to improve child protection and reduce the number of children in conflict with the law.
- Responsible for providing policy direction on child justice matters and formulating and implementing activities aimed at enhancing child justice in the Malawi Judiciary.



November 2020 – Current Judge in Charge, Family and Probate Division

- *Responsible for overseeing the operationalization of the first Family and Probate Division in Malawi.*
- *Presiding over family and probate matters at trial and intermediate appellate levels including mediations and interlocutory proceedings.*

September 2013 – July 2017 – Chairperson of the Child Case Review Board

Responsible for overseeing all issues of child justice in relation to children in conflict with the law in Malawi and those institutionalized for care and protection.

July 2010 – July 2012

Southern African Development Community (SADC), Tribunal Windhoek, Namibia

Legal Researcher

- Conducted legal research for the adjudication of disputes referred to the Tribunal and assisted the Tribunal in the application and interpretation of international law, common law and civil law in light of the objectives of the SADC.
- Facilitated outreach activities for knowledge management and dissemination about the functions of the SADC Tribunal across various Member States.
- Maintained the SADC Tribunal Website with regular updates of decided cases and the status of the Tribunal during the Tribunal's impending closure.
- Studied all aspects of regional integration community judicial bodies and provided legal advice during the process of the restructuring of the Tribunal's human rights mandate.

March 2002 – July 2010

Deputy Chief Law Reform Officer

Malawi Law Commission Lilongwe, Malawi

- Facilitated and coordinated the review of Malawi's Gender-Related Laws (the Wills and Inheritance Act, the Marriage Act, the Divorce Act, the Asiatics (Wills and Succession) Act, the African Marriages Registration Act, the Children and Young Persons Act, The Legal Aid Act, the Trafficking in Persons Act and the Adoption of Children Act).
- Drafted bills for: the Legal Aid Act; the Child Care, Protection and Justice Act; the Deceased Estates (Wills, Inheritance and Protection) Act; the Marriage, Divorce and Family Relations Act; the Gender Equality Act; the Trafficking in Persons Act and the Adoption of Children (Amendment) Act.
- Carried out research and documentation on the status of contemporary international law for the purpose of ensuring that all legislative reforms conformed with the Constitution and applicable international treaty obligations.
- Facilitated and organized over thirty workshops where reforms of the law were discussed.
- Served as a resource person at over ten international conferences on issues of law reform.
- Reviewed the Constitution of Malawi.
- 2005-2006 Employee of the Year.

Jan 1999 – Feb 2002

Deputy Assistant Chief State Advocate

Ministry of Justice and Constitutional Affairs, Lilongwe Malawi

- Desk officer for Child Rights.
- Drafted pleadings and other legal documents and gave civil and criminal legal advice to government departments and prepared opinions and briefs.



- Conducted civil litigation in the High Court in suits against government employment law, contract, torts and constitutional law and oversaw documentation for the incorporation of public trusts.
- Prosecuted over 26 homicide cases and various other serious criminal offenses including serious fraud, rape and other sexual offences.
- Conducted over 60 criminal confirmation cases involving decisions of the lower court in order to guide the High Court in deciding whether convictions and sentences should be confirmed, quashed or the matter reheard.

HONOURS AND ACTIVITIES

- March –April 2006: Selected to US State Department’s “**International Visitors Program**” (IVLP) in the Women and the Law <https://eca.state.gov/ivlp>
- January 2008 - 2012: **Assistant Editor of the Malawi Law Journal**
- November 2009- Current: **Board Member and Honorary Secretary, African Women Non-Violent Initiates for Social Change (AWANICH)** <https://womenpeaceinitiative.wordpress.com/our-partners/awanich/>
- January 2010- Current: **National Training Coordinator, Women Judges Association of Malawi (WOJAM).**
- December 2018 – Current: **Board Member Open Society Initiative for Southern Africa (OSISA)** www.osisa.org/
- July 2017-August 2018: **Hubert H. Humphrey Fellow in Law and Human Rights**, Washington College of Law, American University. <https://www.humphreyfellowship.org> , <https://www.wcl.american.edu/impact/initiatives-programs/humphrey/>
 - Engaged as Judicial Expert (Training) for United Nations Trust Fund (UNTF) and the International Association of Women Judges for the “Justice and Accountability for Sexual Violence Survivors in Malawi (Program) in Malawi”
 - Panellist, Women as Agents of Change Symposium, Rule of Law Collaborative, University of South Carolina (February 2018)
 - Distinguished Guest Lecturer, Public Health and Gender Based Violence, Haverford College, Pennsylvania (April 2018)
- September 2018 – Current: **Gender Based Violence Specialist Member of the United Nations Entity for Gender Equality and the Empowerment of Women’s’ (UN Women) the Regional Ending Violence Against Women (EVAW) Reference Group** providing expert advice for gender-based violence programming in the Eastern and Southern African Region.
- December 2021 – Honoured as **Women Lawyers Association of Malawi Judicial Officer of the Year** for commitment to gender justice.
- March 2024 – Received **Lifetime Achievement Award by the Women Lawyers Association of Malawi** for a lifetime of commitment to gender equality and the rights of the child and enriching the jurisprudence in this area.

CONSULTANCIES

- May 2003: Consultant (engaged by GTZ) to draft and conduct pilot training on “Combating Gender Based Violence Trainer of Trainers Manual on Women and the Law”.
- November 2002: Part of Ministry of Gender and Children’s drafting team for the Malawi Country Report on the CEDAW.



- December 2006: Consultant (engaged by Ministry of Justice and Constitutional Affairs) to draft Malawi's State Party Report funded by UNICEF on the Convention of the Rights of the Child.
- September 2010: Consultant under the Scottish Government Access to Justice Fund to draft 10 Trainer of Trainers Manuals under for paralegal training in Human Rights and Law.
- June 2012: Consultant to edit and draft Guidelines and Handbooks for the Malawi Police Service and the Judiciary on Child Justice and Diversion funded by UNICEF.
- July 2012: Consultant (engaged by the Ministry of Gender, Children and Community Development) with funding from UNICEF to draft regulations for the Child Care, Protection and Justice Act.
- August 2013: Collaborated with International Association of Women Judges under a UNDEF Program to draft Training of Trainers Manuals on Sexual Offences for the Malawi Judiciary.
- June 2016: Facilitator, trainer and drafter of training materials for the Development of Trafficking in Persons Management Guidelines and Trafficking in Persons Reporting Protocols and Management (engaged by the Millennium Challenge Account – Malawi).
- September 2016: Expert Facilitator, Ending Child, Early and Forced Marriage, Office of the High Commissioner of Human Rights, Geneva, Switzerland.
- June 2018: Facilitator (engaged by the World Bank) at Gender and the Judiciary Conference 10-14 June 2018, Arusha, Tanzania.
- November 2018: Judicial Training Expert and Facilitator (engaged by UNODC) at Tanzania Judiciary Training Workshop on Trafficking in Persons November 2018.
- April – July 2019, UNODC/UNDP Malawi- Local Consultant to Develop Trafficking in Persons Manual for the Malawi Police Service (25 days).
- November 2019: Spotlight Initiative – Reviewing Laws and Policies on VAWG, SGBV/HP and SRHR to Respond to Rights of Women and Girls and Aligning them with International Standards (31 days)
- July 2019: Judicial Training Expert and Facilitator (engaged by UNODC) at 3rd Anti-Trafficking Judicial Colloquium , Botswana Judiciary.
- September 2019: Expert Participant: UNODC Expert Meeting to Review a Draft Toolkit on Gender-Responsive Non-Custodial Measures, Bangkok, Thailand.
- December 2019: Co-Consultant to Develop National Referral Pathways for GBV in Formal and Informal Sector (engaged by Tithetse Nkhanza, a DFID funded Programme).
- September 2019: Judicial Training Expert and Facilitator (engaged by UNODC) at Namibia Judicial Colloquium 23-25 September 2019.
- October 2019: Consultant to conduct Gaps Analysis in 5 Gender Related Laws and 2 Policies under Pillar One of the Malawi Spotlight Initiative (engaged by UN Women).
- January 2020: Consultant to draft Training Tools and conduct Training for Investigators in the Office of the Ombudsman and the Malawi Human Rights Commission under Pillar one of the Malawi Spotlight Initiative Programme (Administration of Justice in VAWG) (engaged by UNDP).
- January 2020: Judicial Training Expert and Facilitator (engaged by UNODC) at Zambia Judicial Colloquium.
- January 2020: Co-Consultant (engaged by the Reserve Bank of Malawi) to develop sentencing guidelines for the Malawi Judiciary in currency related offences.
- February 2020: Consultant (engaged by AFIDEP) to develop Parliamentary Committees Procedure Handbook for the Malawi National Assembly.
- May 2020: UNODC Consultant to draft Anti-Trafficking Training Curriculum for the Malawi Police Service.
- July 2020: UNODC Consultant to develop and conduct pilot training for Trafficking in Persons Curricula for the Republic of South Africa.



- October 2020: Expert Presenter: Bangladesh E-Judicial Colloquium to improve responses to human trafficking and migrant smuggling and render justice to victims.
- September 2020: Consultant for Planning and Facilitation of Training Sessions Rolling out Referral Pathways in both Informal and Formal Sector engaged by Tithetse Nkhanza, a DFID funded Programme.
- November 2020: Consultant to develop Case Handling Guidelines for Institutions in the Formal Justice Sector engaged by Tithetse Nkhanza, a DFID funded Programme.
- April 2021: Consultant for the Development of Sentencing Guidelines for the Amended Forestry Act Engaged by Modern Cooking for Healthy Forests (MCHF) in Malawi.
- April 2021: UNODC Expert Consultant to conduct training on Trafficking in Persons and Smuggling of Migrants for Criminal Justice Practitioners in Mozambique.
- August 2021 UNWOMEN/UNDP - Consultancy to Conduct Comprehensive Analysis of National Laws in Malawi as a Step Towards Elimination of Discriminatory Laws – 45 days.
- October 2021: UNODC Expert Consultant to conduct training on Trafficking in Persons and Smuggling of Migrants for Judicial officers and prosecutors in Botswana.
- December 2021: UNODC Expert Consultant to conduct training on Trafficking in Persons and Smuggling of Migrants for judicial officers in Namibia.
- June 2022 – Current: Judicial Institute for Africa (University of Cape Town) Judicial Trainer, providing training support for judges and legal researchers and other court staff in the African region on various topics.

PUBLICATIONS

- “Family and Succession Law in Malawi”, International Encyclopaedia of Law, Kluwer Law International (2009).
- “Ending Early/Child or Forced Marriage in Malawi: the Role of the Judiciary, Expert workshop on Child, Early and Forced Marriages 20 and 21 October 2016, OHCHR’s Women Rights and Gender Section following a request by the Human Rights Council. Geneva (Palais des Nations).
- “Enforcing Child Maintenance Orders in the Malawi Justice System: A Crisis for the Welfare of Children”, (Paper Presented at the 26th Annual Family law Conference MDT/UWC2024, 13-15 March 2024, Cape Town, University of Western Cape).

REFEREES

- **Professor Justice R. Kapindu Phd**, Judge in Charge, Financial Crimes Division, High Court of Malawi, Lilongwe District Registry, Private 15, Lilongwe , Malawi, *Tel.* +265 1754313 *mobile:* +265 888877759 *email* rkapindu@yahoo.com
 - **Ms. Samantha Irikidzai Munodawafa**, Policy lead for GLO.ACT Asia and the Middle East, United Nations Office On Drugs and Crime (UNODC), Vienna International Centre Wagramer Strasse 5, A 1400 Vienna, Austria, *Tel.* +43 699 14595574 *email* samantha.munodawafa@un.org
 - **Ms. Grace Tikambenji Malera**, Ombudsman, Office of the Ombudsman, Private Bag 348, Lilongwe *Tel.* + 265 999975392 / 888875392/ 995014757, *email* gmalera@yahoo.co.uk
-